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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO
10/814,109	03/30/2004	Michael W. Salter	2560.004	5534
21917 7	7590 05/01/2006		EXAMINER	
MCHALE & SLAVIN, P.A.			STANDLEY, STEVEN H	
2855 PGA BLVD PALM BEACH GARDENS, FL 33410			ART UNIT	PAPER NUMBER
			1649	

DATE MAILED: 05/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)				
	10/814,109	SALTER ET AL.				
Office Action Summary	Examiner	Art Unit				
	Steven H. Standley	1649				
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address				
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 16(a). In no event, however, may a reply be time rill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	I. ely filed the mailing date of this communication. 0 (35 U.S.C. § 133).				
Status						
1) Responsive to communication(s) filed on						
2a) This action is FINAL . 2b) This	action is non-final.					
3) Since this application is in condition for allowan	3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposition of Claims						
4)⊠ Claim(s) <u>1-49</u> is/are pending in the application.						
4a) Of the above claim(s) is/are withdrawn from consideration.						
5) Claim(s) is/are allowed.						
6) Claim(s) is/are rejected.						
7) Claim(s) is/are objected to.						
8) Claim(s) <u>1-49</u> are subject to restriction and/or e	election requirement.					
Application Papers						
9)☐ The specification is objected to by the Examiner	· ·					
10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner.						
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).						
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).						
11) The oath or declaration is objected to by the Ex	aminer. Note the attached Office	Action or form PTO-152.				
Priority under 35 U.S.C. § 119						
12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).						
a) ☐ All b) ☐ Some * c) ☐ None of:						
1. Certified copies of the priority documents have been received.						
2. Certified copies of the priority documents have been received in Application No						
3. Copies of the certified copies of the prior	•	ed in this National Stage				
application from the International Bureau	• • • • • • • • • • • • • • • • • • • •					
* See the attached detailed Office action for a list of the certified copies not received.						
Attachment(s)	_					
1) Notice of References Cited (PTO-892)	4) Interview Summary Paper No(s)/Mail Da					
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) 	_ '	atent Application (PTO-152)				
Paper No(s)/Mail Date	6) Other:					
.S. Patent and Trademark Office						

Election/Restrictions

- 1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - Claims 1-5, 11, 13-18, 22-25, 37-39, and 44-46, drawn to a method for modifying NMDA interactions with SRC, classified in class 435, subclass 7.2.
 - II. Claims 6-10, 12, 26-29, 31-35, 40-43, and 47-49, drawn to a pharmaceutical composition comprising a peptide with that inhibits NMDA-SRC interaction, classified in class 514; subclass 2.
 - III. Claims 19-21, drawn to a peptide that anchors SRC to the NMDAreceptor, classified in class 514, subclass 2.

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP § 806.05(h). In the instant case the method entails providing a composition and administering the composition. The method can be performed with any other polypeptide composition such as hGH or insulin, or IGF.

Although there are no provisions under the section for "Relationship of Inventions" in the M.P.E.P. § 806.05 for inventive groups that are directed to different

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products, restriction is deemed to be proper because these methods appear to constitute distinct inventions for the following reasons: Groups II and III are directed to products that are distinct both physically and functionally, and are not required and are not required one for the other.

Invention group II is a polypeptide product which is the fragment of SRC which binds to NMDA receptors such that administration of the fragment interferes with binding of SRC to NMDA receptors. The invention of group III is a polypeptide product that binds SRC and NMDA such that it anchors SRC to the NMDA receptor. The polypeptides have distinct, unrelated sequences with different functions. Therefore a search and examination of the methods of group II and group III would constitute an undue burden, since the searches are entirely different and not coextensive, and the subject matter divergent.

Inventions I and III are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions are a method of modulating NMDA receptor binding with SRC and a polypeptide is not as useful in that method. Therefore, a search and examination of the methods of group I and the product of group III would constitute a serious search burden because they are unrelated and not coextensive.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven Standley whose telephone number is **(571) 272-3432**. The examiner can normally be reached on Monday through Friday, 8:00 AM to 5:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on **(571) 272-0867**.

The fax number for the organization where this application or proceeding is assigned is **703-872-9306**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steve Standley, Ph.D.

4/18/06

LORRAINÉ SPECTOR PRIMARY EXAMINER